

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7721 OF 2004

Gopal Sondur Citizen of Sweden.. .. Petitioner

Vs

Rajini Sondur citizen of Sweden, .. Respondent

Mr E.P.Bharucha, senior counsel with Mr Z.Kamdi i/b M/s
Daphtary F. & Divan for the petitioner.

Mr Anand Grover, senior counsel with Mrs N.Datta with
Mr Prakash Mahadik, for the respondent.

CORAM : D.B.BHOSALE, J.

DATE : 23rd September, 2004.

PC:

1. Rule. Returnable forthwith. Mr.Grover, learned senior counsel, waives service for the respondent. By consent, Rule is heard forthwith.

2. This petition challenges three orders, viz. dated 7.4.2004, 2.6.2004 and 28.7.2004 passed by the Family Court. I heard Mr Bharucha, learned senior counsel for the petitioner and Mr Grover, learned senior counsel for the respondent for quite some time.

3. After having heard the Learned senior counsel for the parties and having considered the overall facts and

circumstances of the case and the impugned orders, I am satisfied that the following order shall meet the ends of justice. The learned senior counsel for the parties fairly stated that I need not record the reasons.

(A) The orders dated 7.4.2004 and 2.6.2004 passed by the Family Court in M.J.Petition No.A/531/2004 pending in the Family Court, Mumbai, shall remain undisturbed until the issue of jurisdiction is settled by the Family Court. The order of the Family Court dated 28.7.2004 is quashed and set aside with the following directions:

(i) The issue of jurisdiction will be decided by the Family Court as preliminary issue, and if possible, on day-to-day basis, within a period of six weeks from the date of receipt of the order by the Family Court. Both the parties agree to cooperate in the expeditious disposal of the preliminary issue and not to seek any adjournments.

(B) In so far as custody of the children is concerned, though that is not an issue involved in the writ petition, after having heard the learned senior counsel for the parties, I am satisfied that pending the issue of jurisdiction the following arrangements shall meet the ends of justice and it is necessary in the

interest of the parties and more particularly their minor children :

(i) With effect from 1.10.2004, the petitioner will give the respondent access to the daughter Natasha from 11.30 am on Friday of alternate week till 3 pm of the following Sunday. For this purpose, the petitioner will bring the child Natasha to Mumbai and hand over the child to the respondent between 10 am and 12 noon at her home situated at B-103, Prachi, Off Juhu Versova Link Road, Andheri (W), Mumbai and collect the child Natasha from the house of the respondent at 3 p.m. on the following Sunday.

(ii) Similarly, on every alternate Saturday and Sunday commencing from 1/10/2004, the respondent will give the petitioner access to 3.1/2 years old son Smyan from 9 am to 11 am and 4 pm to 6 pm in her house. The respondent shall make proper arrangement in her house to enable the petitioner to meet his son as aforestated.

(iii) The arrangement for access is made only pending the disposal of the issue of jurisdiction and is made without entering into the merits of the case. If the Family Court comes to the conclusion that it has jurisdiction to entertain and dispose of the matter, it

should hear and dispose of the issue of custody of minor children Natasha and Smyan as expeditiously as possible and in any event within four weeks from the disposal of preliminary issue of jurisdiction. The issue of custody be decided by the Family Court uninfluenced by the arrangements made by this order.

4. All contentions are kept open.

5. The writ petition is disposed of in the above terms.

. An authenticated copy of this order may be made available to the parties.

(D.B.BHOSALE, J.)